

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

ROBERT W. JACOBS, JR.

CIVIL ACTION NO.: \_\_\_\_\_

VERSUS

WILLARD HARRISON AKA WILLIARD  
HARRISON, WESTERN OILFIELDS  
SUPPLY COMPANY DBA RAIN FOR  
RENT, AND COMMERCE AND INDUSTRY  
INSURANCE COMPANY

JUDGE \_\_\_\_\_

MAGISTRATE JUDGE \_\_\_\_\_

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**NOTICE OF REMOVAL**

TO: THE HONORABLE JUDGES OF THE  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA,  
SHREVEPORT DIVISION

NOW INTO COURT, through undersigned counsel, comes Western Oilfields Supply Company ("Western"), and Commerce and Industry Insurance Company, who, pursuant to 28 U.S.C. §1441, with full reservation of all rights and defenses, respectfully submits this notice for removal of a civil action currently pending against it in the 1<sup>st</sup> Judicial District Court for the Parish of Caddo, State of Louisiana.

In support of this removal notice, defendants state:

1.

Western and Commerce have been made defendants in a civil action pending in the 1<sup>st</sup> Judicial District Court for the Parish of Caddo, State of Louisiana, captioned as *Robert Wayne Jacobs, Jr. versus Willard Harrison aka Williard Harrison, Western Oilfields Supply Company dba Rain For Rent, and Commerce and Industry Insurance Company*, Docket No. 558,435- A.

2.

Western first received notice of this suit on March 28, 2011.

3.

Western and Commerce were served with a copy of the plaintiff's petition through the Louisiana Secretary of State.

4.

This removal notice is being filed within thirty days of defendant's first receipt, on March 28, 2012, through service or otherwise, of the initial pleadings setting forth the plaintiff's claims for relief upon which this action is based. This notice of removal also is being filed less than one year after suit was commenced in state court on March 27, 2012. Therefore, this removal notice is timely under 28 U.S.C. §1446(b).

5.

Pursuant to 28 U.S.C. §1441(a), the United States District Court for the Western District of Louisiana, Shreveport Division, is the federal district court for the district embracing the place where the state court suit is pending.

6.

The plaintiff's petition names three defendants: Willard Harrison aka Williard Harrison, Western Oilfields Supply Company, and Commerce and Industry Insurance Company.

Both Chartis and Commerce consent to removal, as evidenced by the attached consent to removal forms. No consent from Willard Harrison aka Williard Harrison is required at this time as he was not properly served in state court.<sup>1</sup> Once Harrison is served, his consent will be obtained within the time period established in 28 U.S.C. §1446 (b).

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<sup>1</sup> See *Getty Oil Corp. v. Insurance Co. of North America*, 841 So. 2d 1254 (5<sup>th</sup> Cir. 1988).

7.

Western and Commerce, through undersigned counsel, will serve by mail a notice of the filing of this removal notice to plaintiff and will cause a copy of this removal notice to be filed with the Clerk of Court of the 1<sup>st</sup> Judicial District Court for the Parish of Caddo, State of Louisiana, as required by 28 U.S.C. §1446(d).

8.

This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. §§1332 and 1441 in that the plaintiff's "Petition for Damages," a copy of which is attached hereto as Exhibit A, involves claims between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

9.

Although the plaintiff pleads no specific amount of damages in his prayer for relief, in conformity with Louisiana Code of Civil Procedure Article 893, defendants reasonably believe, based on the allegations set forth in the plaintiff's petition, that the amount in controversy in this lawsuit exceeds the jurisdictional minimum amount of \$75,000.

The plaintiff claims that, on or about March 29, 2011, he was a guest passenger in a vehicle operated by Bobby Ray Feaster. He alleges that a vehicle owned by Western and operated by one of its employees rear-ended himself and Feaster on I-49 in Shreveport. The plaintiff claims that he sustained injuries which include a L5-S1 disc bulge and a contusion to his right upper anterior chest wall. Petition at ¶ 7.

The plaintiff seeks to recover damages for the injuries he sustained as a result of this accident. In his petition, he claims that his damages include past, present, and future physical pain and suffering; past and future mental anguish; inconvenience; disability; past and future medical expenses; lost wages; and a loss of his earning capacity. Petition at ¶ 8-9.

Therefore, upon information and good faith belief, counsel for defendants believes that the total amount of damages claimed by the plaintiff exceeds the jurisdictional limit of \$75,000.00, exclusive of interest and costs.

10.

Complete diversity of citizenship exists between the plaintiff and the defendants in that:

- (a) As alleged in the introductory paragraph of the plaintiff's petition, the plaintiff is a citizen of Bossier Parish, Louisiana.
- (b) Defendant, Western Oilfields Supply Company is a corporation organized under the laws of the State of Delaware, having its principal place of business in the State of California.
- (c) Defendant, Commerce and Industry Insurance Company. is a corporation incorporated in the State of New Jersey, having its principal place of business in the State of New York; and
- (d) Willard Harrison aka Williard Harrison was a citizen of Texas at the time the instant action was filed and at the time of this notice of removal. Additionally, the facts of this case arise out of the same accident that occurred in *Bobby Ray Feaster v. Western Oilfields Supply Company, Inc.*, 1<sup>st</sup> Judicial District for the Parish of Caddo, State of Louisiana, Docket No. 554,254. Harrison was a Texas citizen at the time the Feaster action commenced.

WHEREFORE, defendant Western Oilfields Supply Company and Commerce and Industry Insurance Company respectfully pray that this removal notice be deemed good and sufficient and that the proceeding bearing Docket No. 558,435 Division A, 1<sup>st</sup> Judicial District Court, Caddo Parish, Louisiana, be removed to the docket of this Honorable Court.

Respectfully submitted  
JUNEAU DAVID, APLC

/s/ Mason C. Johnson

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MICHAEL J. JUNEAU, T.A. (#18277)  
MASON C. JOHNSON (#32168)

The Harding Center  
1018 Harding Street, Suite 202  
Post Office Drawer 51268  
Lafayette, LA 70505-1268

PH: (337) 269-0052

FX: (337) 269-0061

E-MAIL: [mjj@juneaudavid.com](mailto:mjj@juneaudavid.com)  
[mcj@juneaudavid.com](mailto:mcj@juneaudavid.com)

COUNSEL FOR WESTERN OILFIELDS  
SUPPLY COMPANY AND COMMERCE  
AND INDUSTRY INSURANCE  
COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that, on April 19, 2012, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all known counsel of record who are participants.

/s/ Mason C. Johnson

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MASON C. JOHNSON